

UNITED STATES DISTRICT COURT

JOSEPH P. SCHMITT, pro se  
Plaintiff,

v.

ROBERT MURPHY, et al.,  
Defendants.

C.A. No. 2005-11348-NG

U.S. DISTRICT COURT  
CLERK'S OFFICE  
111 CLERK'S OFFICE  
2007 DEC 13 P 2:03  
MASS.

PLAINTIFF'S OPPOSITION TO, DEFENDANTS' MOTION  
FOR EXTENSION OF TIME TO FILE RESPONSE TO PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT

Now comes the pro se plaintiff, Joseph P. Schmitt, and opposes the defendants motion for extension of time to file response to plaintiff's motion for summary judgment.

As grounds plaintiff states the following:

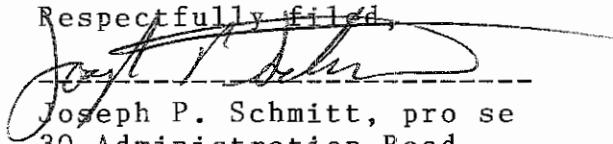
1. Plaintiff filed this action on or about 6/22/05.
2. Defendants did not file an answer to complaint until after the pro se plaintiff filed for and received default on defendants which was about May 31, 2007.
3. Defendants clearly had ample time to file any and all responsive pleadings in this case but chose to procrastinate and ignore this case as though it would magically disappear into thin air.
4. Defendants legal department has over one hundred Bar certified attorneys at their disposal, yet they make the informed decisions to further overextend counsel of record, at the cost of plaintiff being subjected to further delays and separation from his lawful personal property.
5. In civil action PLCV2007-00575 Schmitt v. Pushkina, counsel's sister, attorney Jody A. Brenner so eloquently opposed plaintiff's motion for extension of time to file an opposition. See attached exhibit #1.
6. If plaintiff is subject to the Rules of Civil Procedure, then it is a given that Bar Certified Counsel of the Commonwealth are held to the same rules and a higher expectation of obeying such rules to the very letter. Clearly defendants' counsel, Brendan J. Frigault is an experienced litigator and knows the rules of civil procedure.
7. Plaintiff has the right to justice without delay. See Art. XI of the Constitution of the Commonwealth of Massachusetts.

8. Considering the track record of the defendants' counsel just in the case(s) at bar, plaintiff states that any extension would be a disrepect to this Court, the Laws of the Commonwealth and the United States and towards the pro se indigent plaintiff himself.

9. An extension of time is not a guaranteed right, but is a discretion of the Court, not to be freely handed out to those who clearly have no regard for the relevant rules of procedural and substantive law.

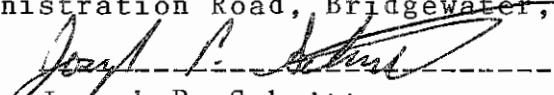
Wherefore, plaintiff prays this Honorable Court deny defendants motion for extension of time to file response to plaintiff's motion for summary judgment, based on the defendants blatant disregard for the relevant rules of procedural and substantive law. Plaintiff further moves that this Court rule on his motion for summary judgment within the time limits allowed and dictated by letter of law and/or those of federal civil procedure.

Dated: December 10, 2007

Respectfully filed,  
  
Joseph P. Schmitt, pro se  
30 Administration Road  
Bridgewater, Massachusetts  
02324-3230

CERTIFICATE OF SERVICE

I, Joseph P. Schmitt, hereby certify that a true copy of the above has been served upon opposing counsel via inter department mail on or about 12/11/2007 at 20 Administration Road, Bridgewater, MA., 02324-3230

  
Joseph P. Schmitt, pro se  
Plaintiff



*The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security  
Department of Correction  
Legal Division  
70 Franklin St., Suite 600  
Boston, Massachusetts 02110-1300  
Tel: (617) 727-3300 Ext. 124  
www.mass.gov/doc*



Deval L. Patrick  
Governor

Timothy P. Murray  
Lieutenant Governor

Kevin M. Burke  
Secretary

James R. Bender  
Acting Commissioner

Timothy Hall  
Acting Deputy Commissioner

Nancy Ankers White  
General Counsel

November 16, 2007

Civil Clerk  
Plymouth Superior Court  
52 Obery Street  
Plymouth, MA 02360

RE: Schmitt v. Pushkina, et al.  
No. 07-00575

Dear Madam/Sir:

Enclosed for filing in the above referenced matter, please find Defendants' Opposition To Plaintiff's Motion To Enlarge Time and exhibit, along with a Certificate of Service.

Thank you for your attention to this matter.

Very truly yours,  
A handwritten signature in black ink, appearing to read "Jody A. Brenner".  
Jody A. Brenner  
Counsel

cc: Joseph Schmitt, Mass. Treatment Center  
Kevin Mulvey, Esq.

*Exhibit #1*

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

SUPERIOR COURT

C.A. No. 07-00575

JOSEPH SCHMITT,

Plaintiff,

vs.

NATALYA PUSHKINA, ET AL.

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S  
MOTION TO ENLARGE TIME**

The Department of Correction defendants hereby oppose "Plaintiff's Emergency Motion for Enlargement of Time to Respond to the Department of Correction Defendants' Motion to Dismiss, or in the alternative, Motion for Summary Judgment."

As grounds therefore, the DOC defendants state as follows:

1. Plaintiff filed this lawsuit on or about May 4, 2007. See docket sheet, attached hereto as Exhibit 1.
2. Approximately ten days after plaintiff filed the complaint, he unsuccessfully attempted to stay the action. See docket entry 5, dated May 14, 2007 and entry 6, dated May 15, 2007.
3. The Department of Correction defendants filed a Motion to Dismiss on or about September 5, 2007. See docket entry 28. Plaintiff was served with a copy of this motion. See certificate of service, attached to defendants' Motion to Dismiss.
4. On September 6, 2007, this Court stated that "plaintiff has 30 days to respond," to defendants' Motion to Dismiss. See docket entry 29.
5. Counsel for defendants received a copy of the notice from the Court with the September 6, 2007 ruling.
6. Although plaintiff claims he never received the DOC defendants' Motion to Dismiss, or the clerk's notice dated September 6, 2007, the docket sheet

reflects that docket sheets were mailed to plaintiff on September 28, 2007.

See docket entry 30.

7. Given that he received copies of the docket sheet, plaintiff has been on notice since **September 2007** that the Department of Correction defendants filed a dispositive motion and that he had been instructed by the Court to respond within thirty days. *Id.*
8. If Schmitt did not have a copy of the DOC Defendants' Motion to Dismiss as of September 2007, one would think that he would have requested a copy sooner than November 6, 2007.
9. It is noteworthy that plaintiff has also failed to respond to Defendant Pushkina and Botelho's Motion for Summary Judgment, filed on August 29, 2007. See docket entry 26.
10. Plaintiff now requests an unreasonable enlargement of time until **February 15, 2008**, to respond to the Department of Correction's Motion to Dismiss, which was filed more than two months ago.
11. In a Motion filed before the Court of Appeals for the First Circuit days ago, attached hereto, plaintiff admitted that he was "overstretched and just recently has been able to actively file oppositions and other such motions in his numerous State and Federal civil actions." See Motion for Enlargement of Time To File Brief, attached hereto as Exhibit 2.
12. The fact that plaintiff has overextended himself with dozens of lawsuits does not grant him license to disregard deadlines and ignore the rules of civil procedure.
13. Prisoners, simply because of their status as prisoners, are not afforded carte blanche to flaunt the rules of civil procedure. "The right of self-representation is not 'a license not to comply with the relevant rules of procedural and

substantive law.'" International Fidelity Ins. Co. v. Wilson, 387 Mass. 841, 847 (1983), quoting Faretta v. California, 422 U.S. 806, 834-835 n.46 (1975).

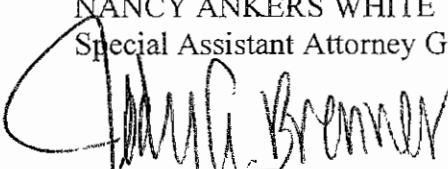
14. The established law in Massachusetts is that pro se litigants are bound by the same rules of civil procedure as litigants with counsel. Broussard v. West Roxbury Dist. Court, 417 Mass. 183, 629 N.E.2d (1994); Friedman v. Board of Registration in Medicine, 414 Mass. 663, 666 (1993); Mmoe v. Commonwealth, 393 Mass. 617, 620 (1985) Kornatowski v. Family Mutual Savings Bank, 388 Mass. 1011 (1983); International Fidelity Ins. Co. v. Wilson, 387 Mass. 841, 847 (1983). Pidge v. Superintendent, Mass. Correctional Institution, Cedar Junction, 32 Mass. App. Ct. 14, 15 (1992)(prisoner case).

Wherefore, the Department of Correction defendants respectfully request that this Court deny plaintiff's Emergency Motion to Enlarge time.

Respectfully submitted,

NANCY ANKERS WHITE  
Special Assistant Attorney General

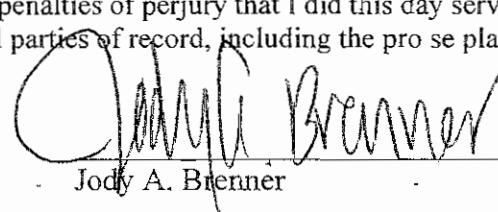
DATED: November 16, 2007

  
Jody A. Brenner, Counsel  
B.B.O. # 633795  
Department of Correction  
Legal Division  
70 Franklin Street, Suite 600  
Boston, MA 02110-1300  
(617) 727-3300 ext. 169

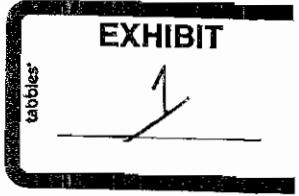
**CERTIFICATE OF SERVICE**

I hereby state under the pains and penalties of perjury that I did this day serve a photocopy of the above document upon all parties of record, including the pro se plaintiff, via first class mail.

Date: 11/16/07

  
Jody A. Brenner

**Commonwealth of Massachusetts  
SUPERIOR COURT  
Case Summary  
Civil Docket**


 EXHIBIT

## Schmitt v Pushkina et al

Details for Docket: PLCV2007-00575

### Case Information

<b>Docket Number:</b>	PLCV2007-00575	<b>Caption:</b>	Schmitt v Pushkina et al
<b>Filing Date:</b>	05/04/2007	<b>Case Status:</b>	Needs review for service
<b>Status Date:</b>	05/04/2007	<b>Session:</b>	Civil B - 3rd Floor- (52 Obey St., Plymouth)
<b>Lead Case:</b>	NA	<b>Case Type:</b>	Most

### Tracking Deadlines

<b>TRK:</b>	A	<b>Discovery:</b>	04/23/2009
<b>Service Date:</b>	08/02/2007	<b>Disposition:</b>	04/18/2010
<b>Rule 15:</b>	07/27/2008	<b>Rule 12/19/20:</b>	10/01/2007
<b>Final PTC:</b>	10/20/2009	<b>Rule 56:</b>	06/22/2009
<b>Answer Date:</b>	09/01/2007	<b>Jury Trial:</b>	NO

### Case Information

<b>Docket Number:</b>	PLCV2007-00575	<b>Caption:</b>	Schmitt v Pushkina et al
<b>Filing Date:</b>	05/04/2007	<b>Case Status:</b>	Needs review for service
<b>Status Date:</b>	05/04/2007	<b>Session:</b>	Civil B - 3rd Floor- (52 Obey St., Plymouth)
<b>Lead Case:</b>	NA	<b>Case Type:</b>	Declaratory judgement (231A)

### Tracking Deadlines

<b>TRK:</b>	A	<b>Discovery:</b>	04/23/2009
<b>Service Date:</b>	08/02/2007	<b>Disposition:</b>	04/18/2010
<b>Rule 15:</b>	07/27/2008	<b>Rule 12/19/20:</b>	10/01/2007
<b>Final PTC:</b>	10/20/2009	<b>Rule 56:</b>	06/22/2009
<b>Answer Date:</b>	09/01/2007	<b>Jury Trial:</b>	NO

## Parties Involved

10 Parties Involved in Docket: PLCV2007-00575

### Party

**Involved:** **Role:** Defendant  
**Last Name:** Botelho **First Name:** Manuel  
**Address:** Nemansket Correctional Facility **Address:** 30 Administration Rd.  
**City:** Bridgewater **State:** MA  
**Zip Code:** 02324 **Zip Ext:**  
**Telephone:**

**Party Involved:** **Role:** Defendant  
**Last Name:** Brady **First Name:** Elizabeth  
**Address:** **Address:**  
**City:** **State:**  
**Zip Code:** **Zip Ext:**  
**Telephone:**

**Party Involved:** **Role:** Defendant  
**Last Name:** Frigault **First Name:** Bendar  
**Address:** Nemansket Correctional Facility **Address:** 30 Administration Rd  
**City:** Bridgewater **State:** MA  
**Zip Code:** 02324 **Zip Ext:**  
**Telephone:**

**Party Involved:** **Role:** Defendant  
**Last Name:** Mansfield **First Name:** Brian  
**Address:** Nemansket Correctional Facility **Address:** 30 Administration Rd.  
**City:** Bridgewater **State:** MA  
**Zip Code:** 02324 **Zip Ext:**  
**Telephone:**

**Party Involved:** **Role:** Defendant  
**Last Name:** Murphy **First Name:** Joseph  
**Address:** **Address:**  
**City:** **State:**  
**Zip Code:** **Zip Ext:**  
**Telephone:**

**Party**

**Involved:** **Role:** Defendant  
**Last Name:** Murphy **First Name:** Robert  
**Address:** Nemansket Correctional Facility **Address:** 30 Administration Rd.  
**City:** Bridgewater **State:** MA  
**Zip Code:** 02324 **Zip Ext:**  
**Telephone:**

**Party Involved:** **Role:** Defendant  
**Last Name:** Murray **First Name:** Mary  
**Address:** Nemansket Correctional Facility **Address:** 30 Administration Rd.  
**City:** Bridgewater **State:** MA  
**Zip Code:** 02324 **Zip Ext:**  
**Telephone:**

**Party Involved:** **Role:** Defendant  
**Last Name:** Pushkina **First Name:** Natalya  
**Address:** Nemansket Correctional Facility **Address:** 30 Administration Rd.  
**City:** Bridgewater **State:** MA  
**Zip Code:** 02324 **Zip Ext:**  
**Telephone:**

**Party Involved:** **Role:** Defendant  
**Last Name:** Thomas **First Name:** Michael  
**Address:** Nemansket Correctional Facility **Address:** 30 Administration Rd.  
**City:** Bridgewater **State:** MA  
**Zip Code:** 02324 **Zip Ext:**  
**Telephone:**

**Party Involved:** **Role:** Plaintiff  
**Last Name:** Schmitt **First Name:** Joseph  
**Address:** Nemansket Correctional Center **Address:** 30 Administration Road  
**City:** Bridgewater **State:** MA  
**Zip Code:** 02324 **Zip Ext:**  
**Telephone:**

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## Attorneys Involved

---

9 Attorneys Involved for Docket: PLCV2007-00575

<b>Attorney Involved:</b>		<b>Firm Name:</b>	MULV01
<b>Last Name:</b>	Mulvey	<b>First Name:</b>	Kevin W
<b>Address:</b>	1244 Boylston Street	<b>Address:</b>	Suite 200
<b>City:</b>	Brookline	<b>State:</b>	MA
<b>Zip Code:</b>	02467	<b>Zip Ext:</b>	
<b>Telephone:</b>	617-278-1881	<b>Tel Ext:</b>	309
<b>Fascimile:</b>	617-278-1888	<b>Representing:</b>	Pushkina, Natalya (Defendant)
<b>Attorney Involved:</b>		<b>Firm Name:</b>	MULV01
<b>Last Name:</b>	Mulvey	<b>First Name:</b>	Kevin W
<b>Address:</b>	1244 Boylston Street	<b>Address:</b>	Suite 200
<b>City:</b>	Brookline	<b>State:</b>	MA
<b>Zip Code:</b>	02467	<b>Zip Ext:</b>	
<b>Telephone:</b>	617-278-1881	<b>Tel Ext:</b>	309
<b>Fascimile:</b>	617-278-1888	<b>Representing:</b>	Botelho, Manuel (Defendant)
<b>Attorney Involved:</b>		<b>Firm Name:</b>	MA14
<b>Last Name:</b>	Brenner	<b>First Name:</b>	Jody A
<b>Address:</b>	70 Franklin Street	<b>Address:</b>	Suite 600
<b>City:</b>	Boston	<b>State:</b>	MA
<b>Zip Code:</b>	02110	<b>Zip Ext:</b>	1300
<b>Telephone:</b>	617-727-3300	<b>Tel Ext:</b>	169
<b>Fascimile:</b>	617-727-7403	<b>Representing:</b>	Thomas, Michael (Defendant)
<b>Attorney Involved:</b>		<b>Firm Name:</b>	MA14
<b>Last Name:</b>	Brenner	<b>First Name:</b>	Jody A
<b>Address:</b>	70 Franklin Street	<b>Address:</b>	Suite 600
<b>City:</b>	Boston	<b>State:</b>	MA
<b>Zip Code:</b>	02110	<b>Zip Ext:</b>	1300
<b>Telephone:</b>	617-727-3300	<b>Tel Ext:</b>	169
<b>Fascimile:</b>	617-727-7403	<b>Representing:</b>	Murphy, Robert (Defendant)

<b>Attorney Involved:</b>		<b>Firm Name:</b>	MA14
<b>Last Name:</b>	Brenner	<b>First Name:</b>	Jody A
<b>Address:</b>	70 Franklin Street	<b>Address:</b>	Suite 600
<b>City:</b>	Boston	<b>State:</b>	MA
<b>Zip Code:</b>	02110	<b>Zip Ext:</b>	1300
<b>Telephone:</b>	617-727-3300	<b>Tel Ext:</b>	169
<b>Fascimile:</b>	617-727-7403	<b>Representing:</b>	Murphy, Joseph (Defendant)

<b>Attorney Involved:</b>		<b>Firm Name:</b>	MA14
<b>Last Name:</b>	Brenner	<b>First Name:</b>	Jody A
<b>Address:</b>	70 Franklin Street	<b>Address:</b>	Suite 600
<b>City:</b>	Boston	<b>State:</b>	MA
<b>Zip Code:</b>	02110	<b>Zip Ext:</b>	1300
<b>Telephone:</b>	617-727-3300	<b>Tel Ext:</b>	169
<b>Fascimile:</b>	617-727-7403	<b>Representing:</b>	Murray, Mary (Defendant)

<b>Attorney Involved:</b>		<b>Firm Name:</b>	MA14
<b>Last Name:</b>	Brenner	<b>First Name:</b>	Jody A
<b>Address:</b>	70 Franklin Street	<b>Address:</b>	Suite 600
<b>City:</b>	Boston	<b>State:</b>	MA
<b>Zip Code:</b>	02110	<b>Zip Ext:</b>	1300
<b>Telephone:</b>	617-727-3300	<b>Tel Ext:</b>	169
<b>Fascimile:</b>	617-727-7403	<b>Representing:</b>	Brady, Elizabeth (Defendant)

<b>Attorney Involved:</b>		<b>Firm Name:</b>	MA14
<b>Last Name:</b>	Brenner	<b>First Name:</b>	Jody A
<b>Address:</b>	70 Franklin Street	<b>Address:</b>	Suite 600
<b>City:</b>	Boston	<b>State:</b>	MA
<b>Zip Code:</b>	02110	<b>Zip Ext:</b>	1300
<b>Telephone:</b>	617-727-3300	<b>Tel Ext:</b>	169
<b>Fascimile:</b>	617-727-7403	<b>Representing:</b>	Mansfield, Brian (Defendant)

<b>Attorney Involved:</b>		<b>Firm Name:</b>	MA14
<b>Last Name:</b>	Brenner	<b>First Name:</b>	Jody A
<b>Address:</b>	70 Franklin Street	<b>Address:</b>	Suite 600

<b>City:</b>	Boston	<b>State:</b>	MA
<b>Zip Code:</b>	02110	<b>Zip Ext:</b>	1300
<b>Telephone:</b>	617-727-3300	<b>Tel Ext:</b>	169
<b>Faximile:</b>	617-727-7403	<b>Representing:</b>	Frigault, Bendan (Defendant)

## Calendar Events

5 Calendar Events for Docket: PLCV2007-00575

No.	Event Date:	Event Time:	Calendar Event:	SES:	Event Status:
1	08/06/2007	16:00	Status: Clerk Follow UP	B	Event held as scheduled
2	08/27/2007	16:00	Status: Clerk Follow UP	B	Event held as scheduled
3	09/04/2007	16:00	Status: Clerk Follow UP	B	Event held as scheduled
4	10/10/2007	16:00	Status: Clerk Follow UP	B	Event held as scheduled
5	12/07/2007	14:00	Motion/Hearing: Rule12 to Dismiss	B	Event canceled not re-scheduled

## Full Docket Entries

79 Docket Entries for Docket: PLCV2007-00575

Entry Date:	Paper No:	Docket Entry:
05/04/2007	1	Affidavit of Indigency-Indigency established at this time filing fee waived, service to be completed by sheriff at defendant's place of employment (David A. McLaughlin, Justice)
05/04/2007	1	Origin 1, Type D13, Track A.
05/04/2007	2	Complaint & civil action cover sheet filed
05/04/2007	3	Pltff's MOTION for service by sheriff
05/08/2007	4	MOTION (P#3) No Action Pending Receipt of currant Canteen Account (David A. McLaughlin). Notices mailed 5/8/2007
05/08/2007	4	Tracking order, administrative directive 92-1 and 9 summons sent to pltff
05/08/2007	5	Pltff's MOTION to stay action
05/15/2007	6	MOTION (P#5) Denied without prejudice to be renewed if necessary (David A. McLaughlin, Justice). Notices mailed 5/15/2007
06/18/2007		Copy of docket sheet sent to plaintiff
06/18/2007		Plymouth County Sheriff's Dept picked up copies of case for service
06/22/2007	7	SERVICE RETURNED: Manuel Botelho(Defendant) in hand to Doreen Walcott agent/person in charge
06/22/2007	7	

06/22/2007 8 SERVICE RETURNED: Bendan Frigault(Defendant) in hand to Doreen  
06/22/2007 8 Walcott agent/person in charge  
06/22/2007 9 SERVICE RETURNED: Brian Mansfield(Defendant) in hand to Doreen  
06/22/2007 9 Walcott agent/person in charge  
06/22/2007 10 SERVICE RETURNED: Michael Thomas(Defendant) in hand to Doreen Walcott  
06/22/2007 10 agent/person in charge  
06/22/2007 11 SERVICE RETURNED: Mary Murray(Defendant) in hand to Doreen Walcott  
06/22/2007 11 agent/person in charge  
06/22/2007 12 SERVICE RETURNED: Natalya Pushkina(Defendant) in hand to Doreen  
06/22/2007 12 Walcott agent/person in charge  
06/22/2007 13 SERVICE RETURNED: Robert Murphy(Defendant) in hand to Doreen Walcott  
06/22/2007 13 agent/person in charge  
07/09/2007 14 Defts Natalya Pushkina and Manuel Botelho's MOTION to enlarge time  
for responding to pltff's complaint 30 days to August 8, 2007  
07/10/2007 15 AFFIDAVIT (P#1) Service modified on defendants not yet served.  
07/10/2007 15 Service ordered by sheriff at last & usual place of employment  
(Richard F. Connon, Justice)  
07/11/2007 Package sent to Plymouth County Sheriff's Dept for service in  
07/11/2007 accordance with (P#15)  
07/16/2007 16 MOTION (P#14) Allowed. (Richard F. Connon, Justice). Notices mailed  
07/16/2007 16 7/17/2007  
07/24/2007 17 SERVICE RETURNED: Joseph Murphy(Defendant)  
07/24/2007 18 SERVICE RETURNED: Elizabeth Brady(Defendant)  
07/24/2007 19 Defts Michael Thomas and Robert Murphy's MOTION to enlarge time to  
file a responsive pleading up to and including August 24, 2007  
07/26/2007 20 MOTION (P#19) Allowed (Richard F. Connon, Justice). Notices mailed  
07/26/2007 20 7/27/2007  
07/27/2007 21 Defts' MOTION to enlarge time to file a responsive pleading up to and  
07/27/2007 21 including August 24, 2007  
07/30/2007 22 Pltff's opposition to defts' motion to enlarge time (P#21)  
07/30/2007 23 MOTION (P#21) Allowed (Richard F. Connon, Justice). Notices mailed  
07/30/2007 23 7/31/2007  
08/02/2007 Tracking order to all counsel  
08/22/2007 24 Defts Robert Murphy, Joseph Murphy, Mary Murray, Elizabeth Brady,  
08/22/2007 24 Brian Mansfield, Bendan Frigault and Michael Thomas's MOTION to  
08/22/2007 24 enlarge time to file a responsive pleading up to and including  
08/22/2007 24 September 7, 2007  
08/23/2007 25 MOTION (P#24) ALLOWED. (Richard F. Connon, Justice) Notices mailed  
08/23/2007 25 8/24/2007  
08/29/2007 26 Defts Natalya Pushkina and Manuel Botelho's MOTION for Summary  
08/29/2007 26 Judgment, pursuant to Mass.R.Civ.P. 56

09/04/2007 27 MOTION (P#26) Plaintiff has 30 days to respond (Richard F. Connon, Justice). Notices mailed 9/4/2007

09/05/2007 28 Defts Robert Murphy, Joseph Murphy, Mary Murray, Elizabeth Brady, Brian Mansfield, Bendan Frigault and Michael Thomas's MOTION to

09/05/2007 28 Dismiss (MRCP 12b6)

09/06/2007 29 MOTION (P#28) Plaintiff has 30 days to respond (Richard F. Connon, Justice). Notices mailed 9/6/2007

09/27/2007 30 Docket sheets mailed to plaintiff 9-28-07

11/02/2007 31 Defts Robert Murphy, Joseph Murphy, Mary Murray, Elizabeth Brady,

11/02/2007 31 Brian Mansfield, Bendan Frigault and Michael Thornas's RENEWED MOTION

11/02/2007 31 to dismiss

11/07/2007 32 Notice sent to appear on 12/7/2007 for a hearing on DOC defts'

11/07/2007 32 renewed motion to dismiss (P#31)

11/07/2007 33 Habeas corpus ad testificandum issued as to Joseph Schmitt at

11/07/2007 33 Nemansket Correctional Center on 12/7/2007 in the Superior Court

11/07/2007 33 Courtroom

11/08/2007 34 Pltff's EMERGENCY MOTION for enlargement of time to February 15, 2008

11/08/2007 34 to respond to DOC defts' motion to dismiss and for an order to

11/08/2007 34 reserve their motion allegedly served on pltff 9/5/07

11/08/2007 35 Pltff's EMERGENCY MOTION for enlargement of time to January 31, 2008

11/08/2007 35 to respond to defts Pushkina and Botelho's motion for summary judgment

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UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

No. 07-2177

JOSEPH P. SCHMITT  
Plaintiff - Appellant

Nov 13 2007

v.

THOMAS CARTER; ERNEST THERIEN;  
MASSACHUSETTS DEPARTMENT OF CORRECTIONS;  
WILLIAM GROSSI; PETER ALLEN;  
MASSACHUSETTS DEPARTMENT OF PUBLIC SAFETY  
Defendants - AppelleesPLAINTIFF'S MOTION FOR ENLARGEMENT OF TIME TO FILE BRIEF

Now comes the pro se plaintiff-appellant and moves the Court for an enlargement of time to file his brief up to and including January 14, 2008.

As grounds for the above captioned motion plaintiff-appellant states the following under pains and penalties of perjury:

1. Plaintiff is civilly committed pursuant of G.L. c. 123A at the Nemansket Correctional Facility (Treatment Center at Bridgewater).
2. The Department of Correction has failed to make the law library accessible to the population due to shortage of staff and other such administrative issues.
3. Plaintiff-Appellant has a great deal of legal issues currently filed in the Commonwealth's Superior Courts', U.S.D.C., and in this Appeals Court. He is over-stretched and just recently has been able to actively file oppositions and other such motions in his numerous State and Federal civil actions.
4. The Department of Correction and other defendants have filed numerous motions in the numerous civil actions plaintiff-appellant has within the Courts of the Commonwealth.
5. Being pro se and inexperienced with the legal world plaintiff-appellant requires more time to conduct research and the compile a written motion or other such pleading in his various cases.
6. At the present time it is believed by plaintiff-appellant that he has approximately 3-4 U.S. Court of Appeal cases to file a brief in, and several Motions to Dismiss to respond to in the Superior Court cases he has filed in the

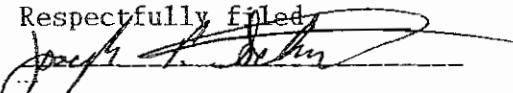
Commonwealth's Superior Courts, and other issues within the U.S.D.C. cases.

7. Most importantly, plaintiff-appellant is in the process of trying to obtain Transcripts/Evidence used in his G.L. c.123A SDP case at the Worcester Superior Court. Said material is vital to his case preparation. AS of this date neither the Worcester Superior Court or former Counsel Christopher P. LoConto has responded to requests made upon them by plaintiff-appellant.

8. Plaintiff-Appellant apologizes to this Honorable Court for his failure to file a motion for enlargement of time in a more timely manner, and begs this Court's indulgence in this matter.

WHEREFORE, Plaintiff-Appellant prays this Honorable Court allow Plaintiff's-Appellant's motion for enlargement of time up to and including January 14, 2008, and further states that such enlargement in no way prejudices the defendants'-appellees.

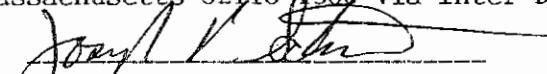
Dated: November 2, 2007

Respectfully filed  


Joseph P. Schmitt, pro se  
Plaintiff-Appellant  
Nemansket Correctional Facility  
30 Administration Road  
Bridgewater, Massachusetts  
02324-3230

CERTIFICATE OF SERVICE

Undersigned pro se plaintiff-appellant hereby certify that a true copy of the above motion was served upon opposing counsel, C. Raye Poole at 70 Franklin Street, Suite 600, Boston, Massachusetts 02110-1300 via Inter-Department Mail on or about November 6, 2007

  
Joseph P. Schmitt, pro se  
Plaintiff-Appellant